

CHAPTER 12

Streets, Sidewalks and Public Places

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ARTICLE 12-4

Construction of Improvements

Sec. 12-4-10. Purpose.

The provisions of this Article shall in no way be construed to conflict with the provisions applicable to organization of special improvement districts in the City. It is intended that this Article shall provide procedures for the making of improvements in addition to those procedures applicable to improvements authorized pursuant to special improvement districts organized in the City. (Prior code §3-301; Ord. 892 §1(part), 1976)

Sec. 12-4-20. Permit application; certificate of grade required.

Every contractor or other person, before laying any curb, gutter, sidewalk, driveway or drainage facility within the City, shall file with the Director of Public Works an application for permit on a form provided by the Director of Public Works. A contractor shall furnish with the application a certificate of grade, certified by a licensed land surveyor or licensed engineer. (Prior code §3-306; Ord. 892 §1(part), 1976)

Sec. 12-4-30. Permit fee.

The fee for such permit shall be five cents (\$0.05) per front foot or side foot, plus a base fee of five dollars (\$5.00). (Prior code §3-307; Ord. 892 §1(part), 1976)

Sec. 12-4-40. Curb cut permit required.

No curb shall be cut or section removed unless a permit to do so has been granted by the Director of Public Works in accordance with requirements of the City. (Prior code §3-309; Ord. 892 §1(part), 1976)

Sec. 12-4-50. Construction regulations.

All curbs, gutters, sidewalks, driveways and drainage facilities shall be constructed in a proper and workmanlike manner using forms approved by the Director of Public Works. (Prior code §3-302; Ord. 892 §1(part), 1976)

Sec. 12-4-60. Construction specifications; conformance required.

All sidewalks, curbs, gutters, driveways and drainage facilities hereafter laid, construction or reconstructed within the City shall be in strict conformity with the requirements, specifications, rules and regulations of the City and shall be subject to inspection by the Director of Public Works. (Prior code §3-304; Ord. 892 §1(part), 1976)

Sec. 12-4-70. Approval of line and grade.

All installations of sidewalks, curb, gutters, driveways and drainage facilities and the lines and grades thereof shall be approved by the Director of Public Works. (Prior code §3-303; Ord. 892 §1(part), 1976)

Sec. 12-4-80. Removal of nonconforming work.

The inspector for the City shall have full power to require the removal of any curb, gutter, sidewalk, driveway or drainage facility which does not conform with the requirements of this Article. (Prior code §3-305; Ord. 892 §1(part), 1976; Ord. 1589, 1999)

Sec. 12-4-90. Gutter obstructions prohibited.

Gutters shall be kept free from obstruction and interference with flow at all times, and all persons are forbidden from depositing any materials which may cause obstruction or interference with flow in the streets or gutter. (Prior code §3-308; Ord. 892 §1(part), 1976)

Sec. 12-4-100. Construction of sidewalks.

(a) Whenever the owner or occupant of any block, lot or part of a lot within the City is required by order of the City Council and notified by the Director of Public Works to construct or repair any sidewalk in front of his or her premises, it shall be the duty of such owner or occupant to cause such improvement to be made in the manner and within the time provided by the order and notice.

(b) The owner or occupant of any block, lot or part of a lot within the City and located adjacent to a major or minor arterial, a collector or a public or private school, or adjacent to a primary transportation route to a public or private school within the corporate limits of the City on which no sidewalk currently exists, shall construct a sidewalk along the entire boundary of the property that abuts the arterial or collector, or school or school route, in full compliance with current applicable public works standards and specifications, according to the schedule and conditions set forth herein.

(1) For all commercial property located adjacent to a major or minor arterial, collector, or a public or private school, or along a primary transportation route to a public or private school, in which no sidewalk currently exists, the owner shall construct the sidewalk, at the owner's sole expense, within ninety (90) days of written notice from the City to do so.

(2) For all residential property located adjacent to a major or minor arterial, collector, or a public or private school, or along a primary transportation route to a public or private school, in which no sidewalk currently exists, the owner shall construct the sidewalk, at the owner's sole expense, within six (6) months of written notice from the City to do so.

(3) Notwithstanding the requirements and time limits set forth in Subsections (a) and (b) above, upon the change of use or change of ownership of any commercial or residential property located adjacent to a major or minor arterial, collector or a public or private school, or along a primary transportation route to a public or private school, in which no sidewalk currently exists, the owner or occupant thereof shall construct a sidewalk in full compliance with current applicable public works standards and specifications, at the owner's sole expense, within sixty (60) days of the change of ownership or change of use.

(c) Definitions. As used in this Section, the following words shall have the meanings ascribed to them as follows:

(1) *Collector* shall have the meaning ascribed to it in the adopted *City of Brighton Public Works Standards and Specifications Manual*, as the same may be amended from time to time.

(2) *Major arterial* shall have the meaning ascribed to it in the adopted *City of Brighton Public Works Standards and Specifications Manual*, as the same may be amended from time to time.

(3) *Minor arterial* shall have the meaning ascribed to it in the adopted *City of Brighton Public Works Standards and Specifications Manual*, as the same may be amended from time to time.

(4) *Primary transportation route to a public or private school* shall mean any street or road within the corporate limits of the City upon which:

a. A school bus, van or other school vehicle travels to transport students to or from a public or private school within the corporate limits of the City; or

b. School-age children walk or ride bicycles, skateboards, scooters or other similar modes of transportation to or from a public or private school. (Ord. 1756 §1, 2002)

Sec. 12-4-110. Construction ordered upon petition.

Whenever the City Council receives a petition signed by not less than sixty percent (60%) of the owners of property abutting a public street, curb, gutter, drainage facility or other facility for which improvement thereof is deemed necessary by the City Council, and owning at least sixty percent (60%) of the property abutting thereon, the City Council may, if it deems construction, reconstruction or repair of such street, curb, gutter, drainage facility or other improvement is necessary, order that such construction, repair or reconstruction be accomplished. (Prior code §3-310(2); Ord. 892 §1(part), 1976)

Sec. 12-4-120. Notice of construction.

The order of the City Council shall be by resolution which shall describe the place where the sidewalk, curb, gutter, street, drainage facility or other improvement shall be constructed, repaired or reconstructed and shall further recite that if the same is not accomplished by the property owner

within thirty (30) days from the date the resolution takes effect, the City shall construct, repair or reconstruct the same or cause the work to be done and assess the costs thereof against the adjacent property and the owner thereof, and certify and collect the same as is permitted by law, including a lawsuit against the property owner personally or by certification through the County Treasurer for collection in the same manner as is provided for collection of general property taxes. (Prior code §3-310(3); Ord. 892 §1(part), 1976; Ord. 1589, 1999)

Sec. 12-4-130. Unpaid assessment penalty.

A ten-percent penalty on the unpaid assessment shall be added to the assessment to defray the cost of collection. (Prior code §3-310(4); Ord. 892 §1(part), 1976)

Sec. 12-4-140. Service of notice.

Notice of the resolution shall be given by service of a copy thereof upon the owner of the adjacent property in person, or by leaving the same at the household of the property owner with a member thereof over the age of eighteen (18) years or by mailing a copy thereof to the owner of such property by certified mail. (Prior code §3-310(5); Ord. 892 §1(part), 1976; Ord. 1589, 1999)

Sec. 12-4-150. Owner presumed to be person of record.

The owner, for purposes of this Article, shall be conclusively presumed to be the person of record as shown by the tax records of the County Assessor. (Prior code §3-310(6); Ord. 892 §1(part), 1976; Ord. 1589, 1999)

Sec. 12-4-160. Work performed by City.

If any property owner shall fail to construct, repair or reconstruct his or her sidewalk, curb, gutter, street, drainage facility or other improvement when so ordered within thirty (30) days from the date the notice of the resolution is given as provided in this Section and Sections 12-4-100 through 12-4-150 above, the City may construct, repair or reconstruct the sidewalk, curb, gutter, street, drainage facility or other improvement or cause the same to be done. (Prior code §3-311(1); Ord. 892 §1(part), 1976)

Sec. 12-4-170. Statement for City work.

Upon completion by the City or at City expense of any such sidewalk, curb, gutter, street, drainage facility or other improvement upon acceptance of the same by the Director of Public Works, the Director of Finance shall prepare a statement of the costs thereof chargeable to the property, including a ten-percent fee for the cost of collection. (Prior code. §3-311(2); Ord. 892 §1(part), 1976)

Sec. 12-4-180. Notice of assessment and hearing.

The Director of Finance shall thereupon, by advertisement for a period of three (3) consecutive weeks in a newspaper of general circulation published in the City, notify the owner of the property to be assessed that the improvements have been or are about to be completed and accepted, specifying therein the property and the amount to be assessed thereon and designating therein the time and place for a hearing by the City Council for the purpose of hearing complaints and objections to the proposed assessment. (Prior code §3-311(3); Ord. 892 §1(part), 1976; Ord. 1589, 1999)

Sec. 12-4-190. Assessment.

After the public hearing, the City Council shall make any changes in the assessment as may in its judgment be necessary, equitable or just and shall thereupon finally determine the amount of such assessments and assess the costs of improvements, including a ten-percent penalty thereon to defray the cost of collection. (Prior code §3-311(4); Ord. 892 §1(part), 1976)

Sec. 12-4-200. Certification and collection of assessment.

If the assessment is not paid by the property owner to the Director of Finance within thirty (30) days after the assessment has been so finally determined and made by the City Council, the Director of Finance shall certify the assessment to the County Treasurer, who shall extend the same upon the tax roll and collect the same as other general property taxes assessed against the property. (Prior code §3-312; Ord. 892 §1(part), 1976; Ord. 1589, 1999)

Sec. 12-4-210. Separate assessment for each owner.

In case such order of the City Council includes any of such improvements abutting lots or lands of more than one (1) owner, the same shall be included in one (1) resolution ordering the same, but the cost, when determined by the City Council, shall be assessed against each abutting property and the owner thereof separately according to the cost of construction, repair or reconstruction of such improvement abutting on each lot or parcel of land respectively. (Prior code §3-313; Ord. 892 §1(part), 1976)

Sec. 12-4-220. Emergency sidewalk repair; Council authority.

If it appears to the City Council that any sidewalk is in such a state of repair as to endanger the traveling public, it may, upon its own motion by resolution, order that the same be repaired forthwith. In case the same is not repaired within three (3) days after notice thereof, given to the owner as provided in Section 12-4-80 above, the City may repair the same and assess the cost thereof against the adjacent property and the owner thereof. If the cost of such repair is not paid within thirty (30) days, the Director of Finance shall certify and collect the same as provided in this Article for other assessments. (Prior code §3-314; Ord. 892 §1(part), 1976)

ARTICLE 12-8

Sidewalk, Curb or Gutter

Sec. 12-8-05. Obstruction of public places.

It is unlawful for any person to erect, place or maintain or cause to be erected, placed or maintained any obstruction on any sidewalk, street, alley or other public place in the City without written authorization from the City. (Prior code §3-101; Ord. 908 §2(part), 1976)

Sec. 12-8-10. Snow and ice obstruction on sidewalks.

(a) It is unlawful for any person who is owner, tenant or occupant, or any agent, servant, representative or employee of such owner, tenant or occupant having control of any lot, block or parcel of land within the City to allow any snow, sleet, ice or other obstruction to accumulate or remain upon any sidewalk adjoining such lot, block or parcel of land within the City for more than

twenty-four (24) hours after the time of the last accumulation of such snow, sleet, ice or other obstruction.

(b) In the event any of the provisions of this Section are violated, the City Manager may serve, either personally or by regular mail, postage prepaid to the last known address of the addressee, a written notice upon the owner, tenant, occupant or agent, servant, representative or employee of such owner, tenant or occupant having control of the subject property where the violation of this Section exists, to comply with the provisions of this Section. Service thereof shall be deemed complete upon personal delivery, or after forty-eight (48) hours from the date of mailing in the event the mail notice is not returned to the sender.

(c) If the address of the person to be notified, as provided in this Section, is unknown or the mail notice is returned undelivered, the notice may be served by posting the same in a conspicuous place on the property where the violation exists, in which event service of the notice shall be deemed complete as of the date of posting.

(d) In lieu of giving notice after a violation of this Section occurs, the City Manager may, in his or her sole discretion, give notice in advance of any violation, in the manner provided for herein to the owner, tenant or occupant of any property in the City of the provisions of this Section and of the right of the City to abate any violation of this Section and assess the cost of such abatement to the owner, tenant or occupant of such property.

(e) If the person upon whom such notice is served fails, neglects or refuses to abate the violation of this Section, the City Manager, without further notice, may cause the necessary work to be performed to bring such property into compliance with this Section and thereafter reasonable efforts shall be made to notify the owner, tenant or occupant of the costs thereof, plus the charges authorized in this Section. However, in no event shall failure of the owner, tenant or occupant to receive notice of the costs and charges void the lien provided for in this Section. The costs of such work plus the actual costs to the City caused by such violation, including City personnel time and overhead, as determined by the City Manager, in an amount not less than fifty dollars (\$50.00), in the event payment thereof is not made to the City within thirty (30) days after completion of the work, shall become a lien against the subject property as of the date the Director of Finance certifies the costs and charges to the office of the County Treasurer, for collection in the same manner as general property taxes are collected. (Ord. 1299 §1, 1988; Ord. 1589, 1999)

Sec. 12-8-15. Refusal to remove obstructions.

Whenever the owner or representative of the owner of any obstruction standing or encroaching upon any street, alley, sidewalk or other public place in the City refuses or neglects to remove the same as required by the City upon receipt of a written notice from the City Manager directing such removal, the City may cause the obstruction to be removed or taken down and the expense thereof charged to the owner or other person responsible for such obstruction. Abatement of such obstruction and assessment of the cost thereof by the City shall be in addition to any other appropriate action permissible for violation of this Code. (Prior code §3-102; Ord. 908 §2(part), 1976; Ord. 1589, 1999)

Sec. 12-8-20. Owner or tenant maintenance responsibility.

The responsibility for maintenance and repairs to the sidewalk, curb or gutter is solely the responsibility of the owner (or his or her tenant) of the property abutting such sidewalk, curb or gutter. The property owner or his or her tenant shall be liable for any damages arising as a result of

defects or failure to maintain properly the sidewalk, curb or gutter adjacent to his or her property. (Prior code §7-B510(b); Ord. 894 §1, 1976)

Sec. 12-8-30. Penalties.

Any person found guilty or pleading guilty or nolo contendere to violating any provisions of this Chapter shall be punishable by a fine of not more than three hundred dollars (\$300.00) or by incarceration of not more than ninety (90) days in jail, or both. No written or verbal notice of warning of violations shall be required prior to a criminal prosecution for violation of this Chapter and such prosecution may occur regardless of whether nuisance abatement procedures are or are not commenced. (Ord. 1335 §4, 1989; Ord. 1589, 1999)

ARTICLE 12-12

Excavations

Sec. 12-12-10. Permit required.

It is unlawful for any person to dig up, open, excavate or cause to be dug up, opened or excavated any street, alley, sidewalk or other public place belonging to the City without having first secured a permit therefor from the Director of public works. (Prior code §3-211(1); Ord. 890 §1(part), 1976)

Sec. 12-12-20. Permit kept on site.

Such permit shall be kept at the site of the excavation while the work is in progress and shall be exhibited upon request to any police officer, the Director of Public Works or any other authorized representative of the City. (Prior code §3-211(2); Ord. 890 §1(part), 1976)

Sec. 12-12-30. Work prohibited without permit; double fee.

Any person making a cut or excavation in any street, alley, sidewalk or other public place belonging to the City without first having obtained a City permit as provided in this Article shall have all operations suspended by the Director of Public Works and shall obtain a City permit applicable to that particular cut or excavation and shall pay twice the usual fee that would have been charged if a permit had properly been obtained prior to making the cut or excavation. Such penalty fees shall be in addition to any penalties that may be imposed by a court for violation of this Article. (Prior code §3-211(3); Ord. 890 §1(part), 1976)

Sec. 12-12-40. Permit procedure for emergency work.

Any person may make an emergency cut or excavation in any street, alley, sidewalk or other place belong to the City. However, such person must, the first working day after making such cut or excavation, notify the Director of Public Works of such cut or excavation and obtain a permit and pay the required fees. Should such person fail to make this notification and obtain the required permit, the matter will be dealt with as provided in Section 12-12-30 of this Code. (Prior code §3-211(4); Ord. 890 §1(part), 1976)

Sec. 12-12-50. Application contents.

Application for a permit to excavate shall be made upon a form provided by the Director of Public Works and shall recite specifically and illustrate by sketch or plan the exact location and the approximate depth, length, width, extent, nature and purpose of the excavation desired to be made, the purpose for which the privilege is requested, the duration of time required for work and the amount of the permit fee, and any other pertinent data requested by the Director of Public Works. (Prior code §3-212; Ord. 890 §1(part), 1976)

Sec. 12-12-60. Permit-issuance requirements.

Every applicant, before being granted a permit under the provisions of this Article, shall, in addition to the filing fee required in Sections 12-12-120 and 12-12-130, furnish the City with proof of insurance in such form as is approved by the Director of Public Works with an insurance company licensed to do business in the State with the following provisions for coverage:

- (1) Bodily injury liability including motor vehicle in the amount of:
 - a. One hundred thousand dollars (\$100,000.00) for each person,
 - b. Three hundred thousand dollars (\$300,000.00) for each accident.
- (2) Property damage liability including motor vehicle in the amount of:
 - a. Twenty-five thousand dollars (\$25,000.00) for each occurrence,
 - b. Fifty thousand dollars (\$50,000.00) aggregate.

(3) Such proof of insurance shall be specified for all operations of the permittee and for all of his or her vehicles to be used in the course of his or her operations in the City. (Prior code §3-226; Ord. 890 §1(part), 1976)

Sec. 12-12-62. License and/or permit bond.

(a) Every applicant, before being granted a permit under the provisions of this Article, shall, in addition to the filing fee required in Sections 12-12-120 and 12-12-130 and the proof of insurance as required in Section 12-12-60, provide a standard City license and/or permit bond from an approved treasury-listed bonding agency licensed to do business in the State. The amount of the bond shall be based on the average cost of each occurrence of R.O.W. disturbance and shall be established by the City Council in the annual fee resolution. This permit/license bond shall cover all construction activity by the permittee in the public R.O.W. and easements owned by the City for the period of time as stated on the permit/license bond on file with the City.

(b) A letter of responsibility will be accepted in lieu of a license/permit bond from the Public Service Company, United Power, US West and Jones Intercable.

(c) If construction is not completed in accordance with the appropriate permit, the City may recover all or part of said bond in order to restore the City property back to its original condition or complete construction in accordance with the permit, provided that written notice is given by the Public Works Department to the applicant. (Ord. 1417 §1(part), 1992)

Sec. 12-12-66. Other security.

In the event the valuation of the work proposed in the permit request exceeds the amount established for the license/permit bond pursuant to Section 12-12-62, the Director of Public Works may require any of the following:

(1) Bonds in an amount not less than the total construction cost for each job shall be submitted prior to the issuance of any permits:

- a. Labor/material bond,
- b. Performance bond, and
- c. Maintenance bond.

(2) Increase of said license/permit bond on file. (Ord. 1417 §1(part), 1992)

Sec. 12-12-70. Authority of Director of Public Works.

The Director of Public Works shall grant permits to dig in, cut, open, excavate or cause to be dug up, opened, cut or excavated any street, alley, sidewalk or other public place belonging to the City to persons desiring to do the work for which a City permit is required under the provisions of Section 12-12-10. (Prior code §3-213; Ord. 890 §1(part), 1976)

Sec. 12-12-80. Conditions of permit issuance.

All City permits shall be issued hereunder according to the provisions of this Article and subject to such rules, directions and limitations regarding the time to be required for the work and the manner in which the work is to be performed as the Director of Public Works may prescribe. (Prior code §3-215(1); Ord. 890 §1(part), 1976)

Sec. 12-12-90. Conformance required.

Such permits issued hereunder shall be on the condition that all work performed thereunder shall be in accordance with this Article and the requirements of the Director of Public Works, all of which are intended to provide for the proper care and protection of the streets, alleys, sidewalks and other public places of the City and persons and property of the general public. (Prior code §3-215(2); Ord. 890 §1(part), 1976)

Sec. 12-12-100. Limitation to work allowed.

All permits issued hereunder shall be on the condition that all work done thereunder shall be only such work as is allowed by the City and specified in a contract with the City or the permit issued pursuant to this Article. (Prior code §3-215(3); Ord. 890 §1(part), 1976)

Sec. 12-12-110. Permittee qualifications.

Permits shall be issued under the provisions of this Article only to those persons who are licensed as excavators or determined by the Director of Public Works to be duly qualified as excavators or licensed sewer contractors, structural contractors, special contractors, sidewalk contractors, paving contractors, general contractors, sewer layers or plumbers performing the work for which they are licensed. (Prior code §3-215(4); Ord. 890 §1(part), 1976)

Sec. 12-12-120. Fees required.

Applicants shall pay a fee as hereinafter provided to the Director of Public Works before the issuance of any permit under the provisions of this Article for administrative inspection and replacement costs incurred by the City due to the excavation. No permit issued under the provisions hereof shall be for more than one (1) excavation project. (Prior code §3-216(1); Ord. 890 §1(part), 1976)

Sec. 12-12-130. Fee schedule.

Permit fees for excavations to be made pursuant to this Article shall be charged the applicant in accordance with a schedule of fees to be set by resolution duly adopted by the City Council after review of such fee schedule as the City Council from time to time deems necessary. (Ord. 1042 §1, 1980)

Sec. 12-12-140. Recordkeeping requirements.

The Director of Public Works shall keep a record of all applications made for excavation or cut permits and of the permits so issued. It shall be the duty of every person to furnish, upon request of the Director of Public Works, information regarding the location in any street, alley, sidewalk or other public place of the City of any pipe or other structure installed, maintained or utilized by such person. (Prior code §3-218; Ord. 890 §1(part), 1976)

Sec. 12-12-150. Boring or tunneling required.

If the Director of Public Works determines it to be in the best interests of the City to require the applicant to bore, jack or tunnel a utility line or other line that is to be placed in the public right-of-way, instead of making a street cut or excavation therefor, he or she shall have authority to impose such requirement and issue a permit for such boring, jacking or tunneling. (Prior code §3-214; Ord. 890 §1(part), 1976)

Sec. 12-12-160. Limitations on obstructing streets.

It is unlawful to stop up or obstruct more than the space of one (1) block and one (1) intersection at any one (1) time in any one (1) street or to keep the same blocked up for more than one (1) day after the repair is completed unless permission is first obtained from the Director of Public Works. (Prior code §3-217; Ord. 890 §1(part), 1976)

Sec. 12-12-170. Barricades required.

It is unlawful for any person to dig or cause to be dug any hole, cut, drain, ditch or any other excavation in any street, alley, sidewalk or other public place belonging to the City, without providing during the nighttime sufficient warning lights to be placed with suitable barricade or temporary fence around such hole, cut, drain, ditch or other excavation. During the daytime, the barricade or temporary fence shall be maintained and kept in place, but warning lights shall not be required. (Prior code §3-219(1); Ord. 890 §1(part), 1976)

Sec. 12-12-180. Traffic safety devices required.

Every hole, cut, drain, ditch or other excavation in any street, alley, sidewalk or other public place belonging to the City shall be further protected at all times by traffic safety devices as prescribed by

the Director of Public Works in order to minimize the disruption of the flow of traffic in the vicinity of the work. (Prior code §3-219(2); Ord. 890 §1(part), 1976)

Sec. 12-12-190. Damaging or removing safety device.

It is unlawful to damage, displace, remove or interfere with any barricade or temporary fence, warning light or any other safety device which is lawfully placed around or about any hole, cut, drain, ditch or any other excavation or construction work in any street, alley, sidewalk or other public place belonging to the City. (Prior code §3-220; Ord. 890 §1(part), 1976)

Sec. 12-12-200. Protection of utilities.

The applicant for any permit hereunder shall be directed and is hereby required to inquire of the utility companies as to the location of underground facilities which might be affected by the proposed cut or excavation. (Prior code §3-221; Ord. 890 §1(part), 1976)

Sec. 12-12-210. Backfill and surface specifications.

Backfills and surface repairs shall be made in accordance with the plans and specifications furnished by the Director of Public Works. Such plans and specifications shall conform with accepted engineering standards and shall be specifically adapted to the particular conditions of travel, load requirements, terrain and subsoil moisture where the backfill is to be affected. (Prior code §3-222(1); Ord. 890 §1(part), 1976)

Sec. 12-12-220. Duty to make corrections.

In the event of settlement, subsidence or failure of a repair made by the permittee of a particular excavation, cut or part thereof within a period of one (1) year after the street repair is completed, the permittee who had performed the excavation work shall be notified by the Director of Public Works and given reasonable opportunity to correct the condition to the satisfaction of the Director of Public Works. If the permittee fails to correct the condition to the satisfaction of the Director of Public Works and the City is required to correct the condition, the permittee shall be responsible for repaving and repair costs occasioned thereby in addition to the fees provided for in Section 12-12-130 of this Article. Furthermore, the permittee shall discontinue any and all other work within rights-of-way within the City, and shall be issued no additional street cut permits until such time as the required repair has been completed and paid for. (Prior code §3-222(2); Ord. 890 §1(part), 1976)

Sec. 12-12-230. Restoration of flexible or rigid streets.

Permittee doing work in or under flexible or rigid streets shall immediately replace material in their cuts and compact this material to a density of at least ninety-five percent (95%) of maximum dry density as determined in accordance with the American Association of State Highway Officials Designation T-99. When the permittee certifies the cut has been filled and the density requirements are met, the job shall then be turned over to the City for surfacing. (Prior code §3-223(1); Ord. 890 §1(part), 1976)

Sec. 12-12-240. Restoration of undeveloped street.

Cuts made by any person in any gravel or undeveloped street or in any borrow ditch in a right-of-way in the City shall be restored by the applicant to its original condition. (Prior code §3-223(2); Ord. 890 §1(part), 1976)

Sec. 12-12-250. Restoration of public property by City.

If, after due notice by the Director of Public Works, the permittee fails to complete his or her work within forty-eight (48) hours subsequent to such notice, the City may complete the work created by any cut or excavation authorized by the permit issued hereunder. The costs of such completion shall be charged by the City to the permittee in addition to the permit fees provided in Section 12-12-130 of this Article. (Prior code §3-223(3); Ord. 890 §1(part), 1976)

Sec. 12-12-260. Restoration of public property by permittee.

If the Director of Public Works determines it to be in the best interests of the City to allow or require the permittee to resurface the cut or excavation in or under any flexible or rigid street instead of the City doing so, the Director of Public Works may authorize such completion of the job according to his or her specifications and in his or her discretion based upon cost savings to the City, adjust accordingly the permit fees provided for in this Article; provided, however, that if such alternate method is determined by the Director of Public Works to be in the best interests of the City, the following minimum requirements shall be complied with:

(1) The permittee shall replace the material in such cuts, compact backfill by jetting and rolling or vibrating to the density specified in this Section and Section 12-12-230 and resurface the cut immediately with a temporary or permanent type patch.

(2) The backfill shall immediately be surfaced in a manner so as to duplicate the original surface as nearly as careful workmanship and availability of materials permit. However, a temporary patch may be of cold plant-mixed asphaltic concrete, an adequate treatment of prime oil or other similar material of such a nature as to yield a smooth driving surface of sufficient durability to endure the period of its intended use.

The required permanent patch shall be accomplished within fifteen (15) days following the availability of proper material. The permanent patch shall be a minimum of three (3) inches of hot plant-mixed asphaltic concrete. (Prior code §3-223(4); Ord. 890 §1(part), 1976)

Sec. 12-12-270. Restoration to original conditions.

At the conclusion of work on any street cut or opening within public right-of-way, the entire area shall be left in its original condition. All waste construction or excavating materials shall be removed from the site. Any ditches, gutters, culverts, storm sewer works or drain pipes shall be left open, unblocked and in operating condition. (Prior code §3-223(5); Ord. 890 §1(part), 1976)

Sec. 12-12-280. Liability of permittee.

Any person who shall undertake work pursuant to a permit issued under the provisions of this Article or to perform work under contracts with the City or by virtue of permission obtained from the City Council shall be answerable for any damage occasioned to persons, animals or property by reason of carelessness or negligence connected with such work, and by obtaining a permit for such work shall thereby be deemed to consent and agree to hold the City harmless from any such damage or injury. (Prior code §3-225; Ord. 890 §1(part), 1976)

Sec. 12-12-290. Hindering or obstructing work unlawful.

It is unlawful to hinder or obstruct any work, including any resurfacing operation, cut or excavation operations conducted in accordance with the provisions of this Article. (Prior code §3-224; Ord. 890 §1(part), 1976)

ARTICLE 12-20

Trails and Open Space

Sec. 12-20-10. Short title.

This Article shall be known and cited as the "City of Brighton Trails and Open Space Ordinance." Reference to Ordinance No. 1429 and the applicable section shall be sufficient when citing the provisions of this Article in any legal document, including but not limited to summons, subpoena, pleading, summons and complaint and memorandum. (Ord. 1429 §1, 1992; Ord. 1589, 1999)

Sec. 12-20-20. Applicability.

Unless otherwise provided, this Article applies to all open space areas and trails belonging to the City or within the possession and control of the City, any trail or bikeway right-of-way in a park or recreational district, or any governmental, quasi-governmental or public corporation or entity, whether located within or without the corporate boundaries of the City, excluding such public lands designated as "park." (Ord. 1429 §1, 1992)

Sec. 12-20-30. Trails and open space defined.

As used in this Article, *trail* means and refers to any designated area whether on-street or off-street or generally a pathway for nonmotorized bikes and pedestrians; *open space* means and refers to any public land designated as floodways, flood channels or any other green space not specifically called and designated as *park*. (Ord. 1429 §1, 1992)

Sec. 12-20-40. Permitted uses.

Within the open spaces of the City, the uses allowed shall be picnicking and other passive activities; within the trail right-of-way the uses allowed shall be bicycling, walking, hiking and jogging. The Director of Public Works is further authorized to place appropriate signage through the public open spaces and trails which may assist in advising the public of the permitted activities and prohibitions contained herein. (Ord. 1429 §1, 1992)

Sec. 12-20-50. Prohibited activities.

No person shall engage in activities of the following nature in the public open spaces and trails of the City:

- (1) It is unlawful for any person to drive or operate on any bike path, trail or other open space of the City any motorized vehicles, including but not limited to automobiles, trucks, motorcycles, motorized bicycles and snowmobiles, except motorized wheelchairs and other similar devices operated by handicapped persons. Maintenance vehicles of the City are permitted

upon such public lands for maintenance purposes, and police and emergency vehicles are further allowed for emergency purposes.

(2) It is unlawful for any person:

a. To throw, discharge or otherwise place or cause to be placed in the water of any pond, lake, stream, river or other body of water in or adjacent to any trail or open space area, or any tributary, stream, storm sewer or drain flowing into such waters, any substance, matter or thing, liquid or solid, which will or may result in the pollution of said waters.

b. To dump, deposit or leave any bottles, glass containers, broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage or refuse, or other trash. No such refuse or trash shall be placed in any waters in or contiguous to any trail or open space, or left anywhere on the grounds thereof, but shall be placed in the proper receptacles where these are provided; where receptacles are not so provided, all such rubbish or waste shall be carried away from the trail or open space by the person responsible for its presence, and properly disposed of elsewhere.

(3) It is unlawful for any person:

a. To deface, tear down, remove, destroy or injure in any manner whatsoever, or to cause to be defaced, torn down, destroyed or injured in any manner whatsoever, any fence, building, furniture, seat, signs, structure, excavation, post, bracket, lamp, awning, fireplug, hydrant, water pipe, tree, shrub, plant, flower, railing, bridge, culvert or any other property whatsoever belonging to the City in, at or upon any trail or open space owned or controlled by the City;

b. To injure or damage, or cause or permit to be injured or damaged, in any manner whatsoever, any property of the City at, in or upon any trail or open space by cutting, hacking, bending, breaking, burning, daubing with paint or other substances, or by means of fire, or by effecting such injury or damage in any other manner;

c. To move or remove any trail or open space property for any reason whatsoever, other than in case of emergency;

d. To roll, throw or otherwise move any rocks or boulders in any of the trails or open spaces belonging to the City; or

e. To pick or take away from any trail or open space any vegetation.

(4) It is unlawful for any person:

a. To carry, possess or consume any malt, vinous or spirituous liquors or fermented malt beverages at, in or upon any trail or open space owned or controlled by the City except as ordered or approved by the City Council;

b. To have in his or her possession any open container containing any malt, vinous or spirituous liquor or fermented malt beverage while at, in or upon any trail or open space owned or controlled by the City.

(5) It is unlawful for any person to be at, in or upon any trail or open space owned or controlled by the City in such a manner as to willfully interfere with the free and unobstructed use or such trail or open space by any other person. (Ord. 1429 §1, 1992)

